THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.20114 OF 2005

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Dt: 16.09.2005

Between:

Mallika Begum & 6 others.

.. Petitioners

AND

The A.P. Housing Board, rep., by its

Managing Director Gruhakalpa,

Hyderabad & 3 others.

.. Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.20114 OF 2005

ORDER:

Late Qadir Khan, the husband of the 1st petitioner and father of the petitioners 2 to 7, was employed with the A.P. Housing Board. He retired from service on 31.12.1998 and died on 20.02.2004. By the time he died, the amount of gratuity payable to him was not released by the A.P. Housing Board. When the petitioners have approached the respondents 1 to 3, they are said to have released the amount. They expressed

their willingness to release the amount of gratuity except Rs.29,198/-. The 4th respondent, the Vasavi Cooperative Urban Bank, is said to have addressed a letter, dated 21.12.2002, to the 3rd respondent, to the effect that late Qadir Khan was due a sum of Rs.29,198/- to them, and that the same be withheld for payment to them. The petitioner challenges the action of the respondents in withholding the said amount.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent No. 3.

The gratuity payable to an employee cannot be withheld under any circumstances. In fact, even where an employee figures as a judgment debtor, the attachment of amount payable towards gratuity is prohibited under Section 60(1)(g) of the CPC. As of now there is no decree against the said Qadir Khan or his legal representatives. The mere addressing of a letter by the 4th respondent stating that the said Qadir Khan was due certain amount to them, does not enable the respondents 1 to 3 to withhold any portion of the gratuity payable to that employee.

Therefore, the writ petition is allowed, directing that the respondents 1 to 3 shall pay the entire amount of gratuity, payable to late Qadir Khan, to the petitioners. There shall be no order as to costs.

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16.09.2005

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